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Mayor

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CONSERVATION COMMISSION MEETING MINUTES

July 24
and
July 31, 2008

July 24

7:30 p.m.: I. Wallach, Chair, appeared in room 209 City Hall to inform any applicants, abutters, or other interested parties that the Commission did not have a quorum, and that all hearings and other items on the agenda would have to be continued to a July 31st meeting.

July 31, 2008

7:30 p.m.

MEMBERS PRESENT: I. Wallach, Chair, N. Richardson, R. Matthews, D. Green, Associate J. Hepburn

MEMBERS ABSENT: S. Lunin, D. Dickson

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Ratification of Certification of Emergency Order for Brunnen Brook to DPW

Meeting: –Fred Russell, Water and Sewer Department, appeared to report on the flooding caused by a blockage in Brunnen Brook, and the proposed work to clean it out at the end of Prairie Avenue. Residents of Washburn Terrace have been experiencing flooding. DPW proposes to clean in front of the outfall at the end of Prairie, get point elevations between the culvert at Prairie and the culvert at Pine Street, and clean and televise the pipe leading to Prairie. Anne signed the Emergency Order, but the work needs ratification by the Commission.

Motion by D. Green to ratify. R. Matthews seconded the motion. Vote: All in favor. Motion passed.

Proposed Illicit Discharge Ordinance – Tom Daley, Commissioner, DPW – The draft is in your packet.

Meeting: Tom Daley, Commissioner of Public Works, and Maria Rose, Engineering Department, appeared to answer questions about the proposed Ordinance. T. Daley said the ordinance is needed to help satisfy the requirements of Newton's NPDES permit and to provide a tool to prevent illicit discharges to the storm drain system. I. Wallach asked who will provide enforcement? The law office will need a procedure in place to pursue enforcement action, if needed. The ordinance needs to be finalized with the mayor prior to docketing it for BOA approval. N. Richardson is concerned about the stated exemptions in the ordinance for activities that

Conservation Commission

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contribute to loss of water quality in the Charles and other water bodies in Newton. I. Wallach concerned that new law will be a “paper tiger” if not enforced. M. Rose said she is working on education programs to get compliance.

Motion by D. Green to endorse draft ordinance, with comments that the Commission would like to see limits incorporated for pollutants such as salt, phosphates, fertilizers, and others that [negatively] affect resource areas. R. Matthews seconded the motion. Vote: All in favor. Motion passed. Staff will write letter.

76-78 Los Angeles St. –removal of shed in flood zone

Report: Contractor requested permit to remove shed in flood zone. Shed has foundation, and flood zone is bordering land (to the Charles) subject to flooding. Staff advised owner to file RDA for CC review.

310 CMR 10.00 preface to 2005 revisions [Minor Activities] – there are no minor activities in flood zone.

Applicant missed deadline to file in July, and does not want to wait until September to be heard by CC.

Applicant (on July 18th) submitted RDA (no check, and not advertised) for proposed removal of shed.

Meeting: Contractor Robert Franchi, R.A. Franchi Corp., representing Martha Volante of 76 Los Angeles Street, appeared at meeting. Shed is 20’ by 20’ small carriage house with bulkhead measuring 5.5’ by 5.5’, on cinderblock foundation, partly within flood zone. The Commission advised applicant to file. Digital photographs show cinderblock has become partly buried over time. Removing the shed from the flood zone would benefit the resource area, but there is no way under the Act for the work to take place without a filing. No vote taken – RDA will be on September agenda.

32 Williams St. – NOI – continued from 2007, with new plan for 2-family dwelling and driveway in riverfront to the Charles River

Report: Owner was sent copy of engineering comments, but as of this date there is no new plan or additional information. Please see previous comments.

Meeting: New plans received –dated July 22, 2008, received July 24, 2008. Staff has been asking for months for applicant to address wetland issues under 10.58(4) and 10.58(5), but only changes have been in response to engineering comments. And, another new set of plans received, dated July 24, received July 30. Staff sent letter to applicant (copied to CC) regarding needed information for 10.58(3), 10.58(4), & 10.58(5). Applicant has sent letter requesting continuance to Sept. meeting. The hearing is continued to September.

77-79 Florence Place – Hampton Place Condo. Trust-NOI – Relocation of chiller pipes in buffer zone to bank of Hahn Brook & pond.

Report: No one present for applicant. Staff reported de-watering plan submitted. Engineering and staff reviewed and found it still inadequate –not at all sure they can do what they say they can do in so small a space and have asked for additional information. Nitsch Engineering agrees.

Meeting: Hearing continued to September.

133 Harwich Rd. – remove existing deck, construct addition and deck 35 ft from Bordering Vegetated Wetland (all work within 100 ft buffer zone)

Report: Engineering and I have conveyed our comments. Nothing new as of this date. Please see previous notes.

Meeting: New plan submitted that moves proposed work farther from wetland area. Engineer has not provided additional information requested, i.e. soil logs and plant data sheets, and staff does not recommend approval of wetland delineation. Applicant has offered plantings, and it should do no harm to accept proposed plantings – if in flood zone or bordering vegetated wetland, since area is turf grass now.

Motion to approve proposed work by R. Matthews. Second by D. Green for discussion. R. Matthews amended his motion to include requirement of a detailed planting plan to be submitted. D. Green seconded the amended motion. Vote: All approved. Motion passed.

785 Centre Street – ANRAD by Sacred Heart, Inc. for delineation of Bordering Vegetated Wetland

Report: Engineering reported no city drains in the area, but applicant told their engineer there are drains that they keep clear. Also, applicant's surveyor to take some more elevations for comparison with elevation of flagged line. Applicant has asked to continue to the September 25th meeting date.

Meeting: Commission approved continuance to September 25th.

326 Fuller Rd., Brae Burn Country Club – NOI for 13th Fairway renovations, drainage improvements.

Report: Site visit to 13th Fairway w/Frank Nichols. Soils are wet with peat showing at surface. City GIS shows gray areas along channel & on fairway indicating low areas subject to flooding. Plan shows intermittent stream (Cheesecake Brook) along edge of fairway, then bordering area labeled 'tall grass.' Water is flowing clear in Cheesecake and there has been no rain for 2 wks. Within 'high grass' area is second channel with low, very slow flow, roughly parallel to Cheesecake Brook. Consult with engineering shows Cheesecake Brook with 30 ft flood zone on either side. Mr. DeRico says there are drain pipes underlying the 13th fairway (shown on plan) which no longer work to drain the area. Not sure when drains installed (checking files for permitted work), possibly prior to the WPA – not found, so far. Instead of replacing or repairing the pipes, they wish to fill the area, laying gravel base and new drains. Area of proposed re-grading (fill) includes area within 30 ft flood zone, with no mitigation proposed. Applicant proposes to fill site, first with gravel base, then more drain pipes, then with 6-12" of topsoil and sod or seed. I think it possible this qualifies as BVW, possibly grandfathered for its present use. No soil profile offered. The applicant is seeking NEW alteration. Commission must decide whether applicant has adequately identified possible effects to wetlands (need more info?). If BVW soils, can BBCC be permitted to fill and what mitigation is required, and in what form. DEP comment letter has "no comment," but plan shows no BVW and only intermittent stream (no flood zone). July 21st received letter from applicant dated July 16, requesting to withdraw the Abbreviated Notice, without prejudice.

Meeting: Motion by D. Green to accept withdrawal of NOI without prejudice. Second by N. Richardson.

Vote: All approved. Motion passed.

39 Heatherland Road – RDA for repair of bulkhead in flood zone (no grade change)

Report: Entire lot is in flood zone. Bulkhead probably constructed around time of original house – just not shown on building department plans. Proposed work is minor – replacement with slightly smaller profile bulkhead should provide additional flood storage area. Property also has deck (not original with house). Bldg. Department notes permit issued for deck in 2003 for work in 2002, but no Conservation filing. Engineering reports reduction in size of bulkhead will offset any "fill" from pilings for deck in flood zone.

Meeting: Owner Derek Hennessey present and described project. There will be a small amount of excavation to remove the existing cinder-block bulkhead/basement access, and soil will need to be stockpiled on site so it can be re-used around new bulkhead.

Motion by N. Richardson for positive determination #1 and #5, and negative determination #2 with condition that work be scheduled when dry weather is predicted for length of time (3-4 days) needed to complete project. Second by D. Green. Vote: All in favor. Motion passed.

70 Oldham Rd – RDA for deck in flood zone and buffer to top of bank

Report: Intermittent stream at rear of lot and 30 ft flood zone from stream midline set by ordinance. Deck designed to be just out of flood zone, but still in buffer zone. Bank well stabilized by vegetation. If holes for deck supports are hand-dug and all excess soils removed from area, there should be no negative impact to resource areas.

Meeting: Owners Emily and Eli Rubenstein presented project. Work has been scaled back so no need for excavator – if holes for support posts are hand-dug and all soils stored on tarp or removed by wheel barrow, no need for silt fence.

Motion by D. Green to issue positive determination #5 and negative determination #3, with the condition that holes for support posts be hand-dug and no silt fence will be installed. Second by N. Richardson.

Vote: All in favor. Motion passed.

50 Tanglewood Rd – NOI for wetland delineation, demolition of existing house and construction of new 2-family house with grading in the 100 ft buffer to bordering vegetated wetland.

Report: A bordering vegetated wetland line was delineated behind the property (on abutting property). It has not yet been confirmed, but if confirmed, all work, including grading is 50 ft from bvw, and no steep slope. No special conditions would be needed.

Meeting: Paul Finnochio was present to describe the project. Because the applicant requested a delineation, and the bordering vegetated wetland is off the property, the Commission followed the recommendation of staff to approve the 100 ft buffer zone line on the site plan. All proposed work, including grading is 75 ft from the wetland on relatively flat ground. Mitigation includes a dry well proposed to infiltrate roof runoff and erosion and sediment control.

Motion by D. Green to approve project with standard conditions. N. Richardson seconded the motion.

Vote: All in favor. Motion passed.

62 Brierfield Rd – NOI for demolition of existing house and construction of new house in bordering land subject to flooding.

Report: Existing house is partly in bordering land subject to flooding and proposed house is slightly larger and almost in same footprint, but will remove 77 sf from flood zone. Applicant proposes to infiltrate roof run-off in galleys under driveway [to be moved and slightly larger] in front of house –not sure whether there is increase in impervious area in flood zone. Perc test (in proposed driveway area) shows very slow perc rate. Overflow will probably go to city drainage. Under flooded conditions, no infiltration. House probably cannot easily be set back further out of flood zone because of ledge on the property. Is blasting planned to remove ledge? Abutter has submitted letter of concern about the project.

Meeting: Ms. Ksenia Oleinik-Ovod, owner, and Mr. Srinivasa, Kalkunte Engineering, present to represent the project. Owner no longer planning basement because of ledge in area. Some ledge will have to be removed to construct new retaining wall in back of house. Two letters presented from abutters concerned about the project and whether a jack-hammer will be used to remove ledge. Mrs. Milstein of 52 Verndale Road is concerned the work will damage her foundation. DEP comments that incorrect fee paid and no file number has been issued. Plan does not address erosion and sediment control issues. Mr. Srinivasa, engineer, says no jack-hammer will be used to remove ledge, and work will not damage foundation of abutter. Owner proposes she will undertake to provide digital pictures of inside and outside of foundation of 52 Verndale Road (owned by Mrs. Barbara Milstein) to show foundation before and after work at 62 Brierfield Rd.

Motion by R. Matthews to approve project and issue OOC with standard conditions, accepting proposal of owner to take pictures, and provided that silt sac be placed under nearest catch basin prior to start of work for erosion and sediment control, and conditional on DEP issuance of a file number within 21 days; failing the latter the vote will be rescinded. Second by D. Green. Vote: All in favor. Motion passed.

Violations (*new/needs action)

***15 Harwich Rd** – Joyce Hastings, GLM consultant is attending to again ask permission to plant twice the amount of plants for restoration/mitigation and get sign-off on EO right away.

Meeting: – Staff reported that Ms. Hastings cannot make the August 31st date and asked to be on Sep. meeting, instead

***394 Boylston St.** –BC & Mr. Liu own condo on which fill placed. Plantings installed but no re-grading. Condo owners to propose plan to protect vernal pool from run-off from turf lawn. –Awaiting plan.

Meeting: D. Green and A. Phelps visited site with Jedd Barclay (landscaper) and Al Travaglini at the site. New fill is proposed to re-direct storm water run-off toward the middle of the site so it will soak in more rather than rapidly draining off site. Awaiting plan.

1203&1211 Washington – DPW finished their repairs to wall; contractor for Mr. Donato to begin.

160 Pine St –At last meeting CC agreed condo trustees can work under EO.

93 Andrew St – nothing new

3 Fuller – nothing new

Certificates of Compliance

285 Newtonville – OOC issued 3-31-06 for new planting area, removal of oil tank, new handicap ramp, & interior renovations. Plantings in very poor shape in mitigation area. Just received plan for infiltration of roof runoff– not finished reviewing. Plantings dead, and still not replaced.

21 Kingswood Rd – request for COC

Report: All work completed.

Meeting: Owner John Holland present. Anne reported that work is complete and the owner reported that he is putting markers at the edge of the planting area to demarcate it.

Motion by R. Matthews to issue COC with continuing conditions provided in OOC. D. Green seconded the motion. Vote: All in favor. Motion passed.

39 Beethoven Ave – request for COC

Report: All work should be completed by meeting.

Meeting: OOC has two continuing conditions and Anne suggested there should be a third for mitigation plantings, but CC does not believe a continuing condition can be added at the time the COC is issued.

Motion by R. Matthews for issuance of COC as soon as letter from engineer stating that all work done in substantial compliance with Order is located or a second copy provided. Second by D. Green. Vote: All in favor. Motion passed.

Announcements & General Business:

June, 2008 Meeting Minutes for approval

Elections to various committees (see email)

Non-criminal ticketing - report

Work at Kennard – report – grant money being used to put boardwalk in to Kennard Park on state land on Brookline side – overseen by CC agent Tom Brady.

Conservation signs – report

Outstanding issues – discussion

Draft Ordinance Amendment Creating Alternate Members of the Conservation Commission

Anne Phelps, Sr. Environmental Planner